

Approved: SRB 3-11-09
Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:00 a.m. on March 3, 2009, in Room 784 of the Docking State Office Building.

All members were present except:

Representative Jo Ann Pottorff- excused

Committee staff present:

Renae Jefferies, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Jerry Donaldson, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department

Conferees appearing before the Committee:

Renae Jefferies, Assistant Revisor
Matt Fletcher, InterHab & State Use Committee
Ron Passmore, KETCH
Natalie Bright, Coalition for Opportunity

Others attending:

See attached list.

The meeting was called to order by Chairman Steve Brunk at 9:00 a.m. He opened the hearing on **SB 77**.

SB 77 - State use law committee abolished July 1, 2014.

Renae Jefferies, Assistant Revisor provided an explanation of the bill (Attachment 1).

Matt Fletcher, InterHab & State Use Committee spoke in support of **SB 77** (Attachment 2). He spoke of the progress that has been achieved by the State Use Committee to resolve conflicts and improve the program. The Committee is in the process of developing a "pricing matrix" to ensure that prices are in a range of competitiveness. They have come up with a process of three waiver choices for school districts to apply for waivers.

Representative Bethell asked if there was a reason for having a sunset on the law. Matt said that the Committee was formed in 2005 and was a compromise between the vendors and customers at that time. Matt felt that the Committee needed five more years to solve all of the problems. Representative Bethell thought it might be good to just eliminate the sunset on the State Use Law.

Ron Passmore, Executive Director of KETCH testified as a proponent of **SB 77** (Attachment 3). KETCH provides vocational training, employment and residential services for adult children with mental retardation. They make binders and filters for sale through the State Use Law. Their purpose is to provide a quality product at a fair market price. This allows them to provide training and employment for their clients.

Representative Quigley asked if they had always made filters and binders. Ron said that he had been with the company for 20 years and they have always made them during that time.

Representative Bethell said that he was interested in the training facility for individuals that are disabled. He further asked how many over a year's time would leave your facility and go into work in the public sector. Ron said that about 20% would leave. They are working with about 80 people and they help them find work in the public sector.

Natalie Bright, Coalition for Opportunity testified as a proponent of **SB 77** (Attachment 4). She said that the State Use Law employed over 400 blind and disabled Kansans who were afforded their first opportunity to earn a competitive wage. A State Use website has been created with an electric catalog where purchasers may locate and purchase products. The website can be accessed at www.ksstateuse.org and a streaming video has been added to help in the marketing of the products.

CONTINUATION SHEET

Minutes of the House Commerce And Labor Committee at 9:00 a.m. on March 3, 2009, in Room 784 of the Docking State Office Building.

The Chairman asked who was on the State Use Committee. Natalie said that Matt Fletcher was the advocate for the blind and disabled community, there are two legislators, Representative Jo Ann Pottorff and Senator Oletha Faust-Goudeau. In addition they have representatives from a large and a small school district.

The Chairman closed the hearing on **SB 77** and asked the Committee if they should waive the 24 hour wait before working the bill and work it now. The Committee consensus was to work it now.

Representative Ruiz made a motion to move the bill out favorably and send it to the consent calendar. Representative Grange seconded the motion.

Representative Schwab made a substitute motion to strike the word "Register" and replace with the words "Statute". Representative Prescott seconded the motion. The motion failed.

The Chairman called for a voice vote on the original motion. The motion carried.

The next meeting is scheduled for March 4, 2009.

The meeting was adjourned at 10:50 a.m.

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MEMORANDUM

To: House Committee on Commerce and Labor
From: Renae Jefferies, Assistant Revisor
Date: March 3, 2009
Subject: SB 77

SB 77 amends K.S.A. 75-3322c which established the state use law committee. Under current law the state use law committee would be abolished on July 1, 2009. Under SB 77 the committee would not be abolished until July 1, 2014.

The bill would be effective upon publication in the Kansas Register.

According to the fiscal note, there would be no fiscal effect on the department of Administration's operating expenses by extending the life of the committee.



INTERHAB

WWW.INTERHAB.ORG

March 3rd, 2009

TO: Representative David Brunk, Chair, and
Members of the House Commerce and Labor Committee
FR: Matt Fletcher, Associate Director, InterHab and Chair, State Use Committee
RE: SB 77 – Extending the sunset for the State Use Law Committee

Chairman Brunk, and members of the Committee, thank you for the opportunity to speak in support of Senate Bill 77, and extending the sunset of the State Use Law Committee.

Kansas' State Use Law (KSA 75-3317-3322) is one of the oldest such laws in the United States. Established more than 55 years ago, the purpose of the law has been to provide work opportunities to Kansans who have significant disabilities.

The law mandates that State agencies, school districts and regents universities purchase products and services manufactured by Kansans with disabilities.

Adherence to the State Use Law in Kansas has been a slow, incremental process, with customers learning, over time, how the program works and vendors learning how better to meet customer needs.

Despite these advances, school districts had lagged far behind the law's other mandated users in purchasing State Use products.

In 2005, after several years in which State Use vendors and school districts had aired their grievances in the legislative arena, a compromise was struck and the State Use Law was amended.

The Kansas State Use Law Committee was founded as part of those changes made to the Kansas State Use Law. The Committee was created to provide a forum for State Use vendors and customers to discuss their differences and work together on improving the program. The Committee is also charged with assisting the Director of Purchases in improving the system, not only for the benefit of customers and vendors, but most importantly to ensure growth in this vital system of work training for persons with disabilities.

Since that time, the Committee has worked diligently in fulfilling its obligation to improve the program. I won't deny that our initial meetings were intense and highlighted by conflict. In fact, they often times still are. However, the Committee has provided the avenue by which grievances can be aired and potential solutions can be explored. **Progress has been achieved.**

The Committee has explored vital issues together, such as quality, pricing, marketing of the program and the statute's now infamous 'substantial use' language. Without the Committee, very little of this progress would have occurred.

The Committee still has much to do. We remain committed to seeing that the work will be done.

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Pricing and Quality:

The Committee has given great consideration to how to improve the program in these two areas. We are currently in the process of developing a "pricing matrix" which will provide a tool with specific price data that will be used to ensure prices are within a range of competitiveness. However, it's important to remember the context of the State Use law. The point of the program is to provide work training opportunities for persons with disabilities. The reality is that providers who support persons with disabilities and offer these types of work training programs aren't going to be able to compete with cheap foreign imports. Simply creating a pricing structure that pits these vendors against the lowest rock-bottom price available globally will not serve the statute's intent of providing work opportunities to our state's disabled. The Committee is committed to creating a pricing matrix that will guide future pricing of State Use products that is fair to both customer and vendor.

The Committee has also provided a valuable avenue for vendor and customer discussions on quality issues. The Committee regularly receives updates from the Director of Purchases on quality-related issues, and has given a great deal of guidance on how to market the State Use program in a more proactive manner in order to combat misconceptions about the products and services.

Substantial Use:

Without a doubt, the greatest area of contention in the Committee's deliberations has been in finding a way to define a process for school districts to pursue a waiver from the State Use program for 'substantial use'. The term 'substantial use', contained within the statute, is not defined. Included as part of the compromise language in 2005, only school district customers are allowed to pursue a waiver from purchasing State Use products based upon 'substantial use'. It is no surprise that both schools and State Use vendors have very different ideas of what 'substantial use' means. The Committee's solution, after much deliberation, was to put a process in place for not one type of substantial use waiver, but *three*. A school district can apply for a substantial use waiver under the following three categories:

1. *Substantial use of a specific product category*
2. *Substantial use of a single vendor's approved state use offerings*
3. *Substantial use of approved state use products with the State Use Program as a whole.*

The Committee determined that school districts submitting substantial use waiver requests would need to provide supporting information. The more global the waiver request, the more detailed information would be required from the customer submitting the request. The Committee also felt strongly that these waiver requests should be dealt with in as timely a manner as possible, and established a timeline framework for reviewing and taking actions on substantial use waiver requests.

Since the substantial use waiver guidelines were adopted by the Committee in February of 2008, the Committee has received a substantial use waiver request from only one school district. I am happy to report that the Committee has met all of its self-imposed deadlines in reviewing this request and took action on the request within its self-identified 30-day window for review of such requests.

Collection of Data Regarding State Use:

A great example of the symbiosis created through the Committee's presence, is the annual reporting of usage of the State Use Program. This annual report is prepared and compiled by the vendors within the State Use Program, and customers are given an opportunity to review the report in draft form and provide feedback. This type of data collection and dissemination regarding the State Use Program did not exist until a forum for collaboration was created via the Committee. Vendors distribute their annual report to the Legislature every year.

Promotion of the State Use Program:

As mentioned above, the Committee has provided guidance on how to better market the State Use program to the customer base defined within the statute. Initial surveys indicated that an awareness gap existed for many who are required to participate in the State Use Program. Through the Committee's efforts, face-to-face promotional opportunities have been expanded across the state and the marketing tools used by the State Use Program have been refined.

The Future of State Use:

The Committee has also deliberated on future progress for the State Use Program and Kansas, and has identified objectives to achieve that progress. Chief among them would be to someday have a person within State government who would serve as an advocate and ambassador for the program, and would actively look for matches between government needs and work opportunities for persons with disabilities.

The Committee has much work left to do including implementation of a new pricing matrix to guide pricing of State Use products and the continued refinement of the waiver process as additional substantial use waivers are submitted.

We ask for your support of Senate Bill 77 so that we can continue our work.

Thank you.



To: Commerce and Labor Committee
From: Ron Pasmore
RE: Testimony on SB 77
Date: March 3, 2009

Thank you for the opportunity to provide information to you regarding SB 77. KETCH, (Kansas Elks Training Center for the Handicapped, Inc.) was founded in Wichita, KS 45 years ago by parents who sought to develop community services for their adult children with mental retardation. Today we provide comprehensive rehabilitation services to approximately 300 persons with developmental disabilities in the areas of day habilitation, vocational training, employment, and residential services.

Our vocational training program provides training and employment for persons with developmental disabilities. It provides basic work skills training while enabling them to earn a paycheck. Our desired outcome is that they become employable in the community. To this end, we manufacture products and provide subcontract labor to several local businesses. The primary products KETCH sales through the "State Use Law" are notebook binders and air filters. The individuals we serve at KETCH assemble these products. Included as an attachment to this testimony are a couple of photos of our filters manufacturing area. Each person is paid on a piece rate based upon their actual production. It is based on an hourly wage between \$7.50 to \$8.30 per hour, depending upon the job. The wage is determined annually from surveying other businesses with similar jobs in our area. KETCH manufactures all kinds of binders and air filters. Some are very standard items that you could find in any retail store while other items are custom made to the customers' specifications. Binders are often ordered with screen printing, which we can also do at KETCH.

The "State Use Law" is very important to us because it allows us to continue our mission of providing training and employment for our clients. It would be extremely difficult for us to maintain employment for our clients if we were on a head to head competitive basis with regular business and industry. Our costs are higher. We do not purchase raw materials in sufficient volume to purchase at comparable prices. If we were manufacturing these products for maximum profit, we would need to automate many of the production steps that provide work for our clients. Unlike a regular

HELPING PEOPLE
WITH DISABILITIES
LIVE AND WORK
IN THE COMMUNITY.

House Commerce & Labor
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Attachment # 3

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business, we do not control our workforce. We actively work to place our most productive workers into jobs in the community. New workers come to us through our Community Developmental Disability Organization. We do not choose workers based upon their ability to perform their jobs. I believe our primary disadvantage though is the common perception that many people hold that products produced by persons with disabilities will be of inferior quality.

On the business side, our mission is to provide a quality product at a fair market price that meets the needs of our customers. I bought a couple of filters at Walmart recently so you might compare a filter made by KETCH to ones made by 3M. Air filters are rated by a system called MERV, which stands for "minimum efficiency reporting value." The higher the number, the higher the filtration efficiency and higher price. This KETCH filter has a MERV rating of 6. It is priced at \$3.20 per filter. This price includes shipping. The comparable 3M filter was \$4.58 at Walmart. The 2nd 3M filter I bought has a MERV rating of 11 and sold for \$13.88. We routinely evaluate market prices when setting our prices to make sure that we our pricing is competitive. When requesting any price increase, we have shared our market pricing information with the State Use Committee. We offer quantity discounts for our products. Quantity discounts are published in the State Use Catalog for binders.

Quality of the product is very important to us. I would be the first to admit that our filters do not look as nice as the 3M examples I brought today. We do not use printing on our paper trays as this would increase our costs. However, on the main purpose of the filter, the blue filtration media is purchased from the same company that supplies to many other filter manufacturing companies. It filters exactly as it does for those manufacturers. The strength of frame is comparable to these examples, probably even a bit stronger since we use bracing on both sides of the filter. If a customer ever finds one of our filters to be bad, we will gladly replace it or provide a credit for it. We work with our customers who have special requirements and have the capability to produce filters in custom sizes. Included as attachments to this testimony are emails from two of our customers stating their satisfaction with our filters.

Income from sales of our products is a small part of our total revenue. As of the end of December, sales of binders and filters was 7% of our total revenue. We have seen a decrease in sales this year, as one would expect due to the economy. Binders is at a year to date loss of (\$19,500) on sales of \$117,000 and filters has a loss of (\$28,000) on sales of \$250,000. In good years we usually break even.

If passed, SB 77 allows the State Use Law Committee to remain in place for another five years. The committee structure allows all stakeholders to have a voice in oversight of the program. As one of the committee members, I believe it has been successful in providing the necessary oversight to assure that the products offered meet the needs of our state use customers and are provided in a convenient manner at a fair market price.





KANSAS STATE USE LAW USAGE REPORT
July 2007 to June 2008

Since the 1950's, Kansas public policy has been that state agencies, state universities and Unified School District's (USD's) purchase products manufactured blind and disabled Kansas citizens as a means for creating employment opportunities for these Kansans that otherwise may not exist. This public policy is set in K.S.A. 75-3317 *et seq.* and is known as the Kansas State Use Law (SUL).

In 2004, several Kansas SUL Vendors (those who employ blind and disabled Kansans) joined together to form the Coalition for Opportunity (Coalition). Members of the Coalition committed themselves to updating and improving the existing SUL program for both vendors and required purchasers. In 2005, the Coalition successfully lobbied the Kansas Legislature to update the law as well as create a SUL oversight committee comprised of legislators, purchasers, vendors and a consumer representative. Since updating the law, the SUL program has seen a steady growth in the volume of sales as well as improvements in the relationship between required state purchasers and SUL vendors.

During this reporting period, the number of active SUL vendors remained at ten with the addition of Goodwill Industries and the loss of Disability Support. Collectively, the SUL vendors employed over 400 blind and disabled Kansans, many who were afforded their first opportunity to earn a competitive wage, obtain access to health benefits and sustain viable employment because of the opportunities created by the SUL program. In addition, even more blind and disabled persons are helped by the dollars reinvested in the missions of the SUL not-for-profit employers. Without the Kansas SUL program and the accommodated work environments established by the SUL vendors, very few employment opportunities would exist for these blind and disabled Kansan citizens.

Part of the reform measures passed during the 2005 Legislative Session, requires that the SUL vendors prepare an annual report that summarizes the volume of sales for each SUL product or service sold as well as a summary of waivers requested and issued. In addition, the report highlights the activity of the SUL Committee as well as vendors efforts to grow the program. Below is the report submitted on behalf of the 2007-2008 SUL Vendors.

2007-2008 SUL Program Highlights

- ✓ SUL Committee has met four times during the reporting period. Respective sub-committees met as well.
- ✓ SUL Committee established set criteria for qualified vendors to enter the program. SUL Committee approved Goodwill Easter Seals of Kansas who will be providing safety products such as vests and glasses.
- ✓ SUL Committee held strategic planning sessions or retreats to discuss waivers and collectively came up with a compromise language setting out guidelines for the substantial purchase waived authorized during the 2005 reform efforts.
- ✓ SUL Committee established a time-line for the production of the SUL Catalog. This has simplified the process for both the Director of Purchases and the SUL vendors. In addition to the printed catalog, SUL vendors have also established an electronic catalog and a website where purchasers may locate and purchase products electronically. The website can be accessed at www.ksstateuse.org.
- ✓ SUL vendors, with the assistance of the Director of Purchases, continued to sell their products through the state contract with Corporate Express. This arrangement has made the SUL program more accessible for all state purchasers and has streamlined the purchasing of SUL products for many required purchasers.
- ✓ SUL Committee set boundaries for volume pricing and agreed to publicize their willingness to negotiate prices with purchasers willing to purchase in volume.

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- ✓ SUL Committee, with the assistance of Barry Swanson and KU students, are undertaking a price study of SUL products. The goal of the effort is to see SUL pricing is competitive with the open market.
- ✓ SUL vendors completed production of their streaming video project on the SUL program and distributed it to various sources including state legislators and USD 259 (Wichita) who has disbursed it district wide.
- ✓ SUL vendors held a one day vendor show at the Kansas State House where legislators, state purchasers and USD representatives were able to visit with SUL vendors regarding their products and programs they offer and the participants who benefit from their efforts.
- ✓ Overall, SUL sales decreased by 4% or almost \$300,000. USD's, however, continued efforts to increase their purchases in FY 08 and did so by approximately 5%.
- ✓ Overall waiver requests from the Department of the Administration have been reduced dramatically since the last SUL Usage report.

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